

By decision dated December 9, 2016, OWCP reviewed the merits of the claim, but denied modification of its July 18, 2016 decision. It found that the medical evidence submitted in support of the reconsideration request contained an inaccurate history of injury. OWCP also noted that appellant previously filed a claim for a right knee injury, under File No. xxxxxx078, that allegedly

occurred on November 16, 2015.¹ In adjudicating the current claim, OWCP specifically referenced medical evidence that it obtained from File No. xxxxxx078. However, it has not combined the two case records, nor has it incorporated the referenced medical evidence into the current case record.²

The Board finds that the case is not in posture for decision. Pursuant to 20 C.F.R. § 501.2(c)(1), the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Decisions on claims are based on the written record, which may include forms, reports, letters, and other evidence of various types such as photographs, videotapes or drawings.³ Evidence may not be incorporated by reference, nor may evidence from another claimant's case file be used.⁴ Evidence contained in another of the claimant's case files may be used, but a copy of that evidence should be placed into the case file being adjudicated.⁵ All evidence that forms the basis of a decision must be in that claimant's case record.⁶

Because OWCP neglected to include the referenced information from File No. xxxxxx078 in the current case record, the Board is not in a position to make an informed decision regarding appellant's entitlement to FECA benefits.⁷ Therefore, the case shall be remanded to OWCP for further development. After OWCP has developed the record consistent with the above-noted directive, it shall issue a *de novo* decision.

¹ OWCP mistakenly identified the date of injury as November 16, 2016.

² See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000) (Cases should be doubled/combined when correct adjudication of the issues depends on frequent cross-reference between files).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.5a (June 2011).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ See *K.P.*, Docket No. 15-1945 (issued February 10, 2016); *M.C.*, Docket No. 15-1706 (issued October 22, 2015).

IT IS HEREBY ORDERED THAT the December 9, 2016 decision of the Office of Workers' Compensation Programs is set aside, and the case remanded for further action consistent with this order.

Issued: May 16, 2018
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board